

# **Appendix 1**

*1996 Scoping Report*

EBMUD  
REPORT ON ENVIRONMENTAL SCOPING

**FOLSOM SOUTH CANAL CONNECTION  
PROJECT EIR**

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## TABLE OF CONTENTS

SUMMARY OF THE NOTICE OF PREPARATION/INITIAL STUDY .....	1
SCOPING MEETING and ORAL COMMENTS .....	1
WRITTEN COMMENTS RECEIVED .....	2
Category 1: The Range Of Alternatives Is Too Narrow .....	3
Category 2: Tiering Off the WSMP EIR and the Findings is Inappropriate .....	3
Category 3: Heavy Reliance on the Hodge Decision/EDF Testimony is Inappropriate .	4
Category 4: Concerns with Potential Environmental Impacts of the Pipeline .....	5
HOW WILL EBMUD ADDRESS THESE CONCERNS? .....	6
Background .....	6
Approach .....	7
Category 1: The Range Of Alternatives Is Too Narrow .....	7
Category 2: Tiering Off the WSMP EIR and the Findings is Inappropriate .....	7
Category 3: Heavy Reliance on the Hodge Decision/EDF Testimony is Inappropriate .	7
Category 4: Concerns with Potential Environmental Impacts of the Pipeline .....	8
LOG of LETTERS .....	9
LIST of ACRONYMS .....	10

**SUMMARY OF THE NOTICE OF PREPARATION/INITIAL STUDY**

On January 29, 1996, the East Bay Municipal Utility District (EBMUD, or District) issued a Notice of Preparation (NOP) and Initial Study/Checklist (IS), pursuant to California Environmental Quality Act (CEQA) Guidelines §15063(c)(3) (State of California, 1995). In the NOP/IS, EBMUD stated the project purpose was to take delivery of American River water, pursuant to its existing contract with the U.S. Bureau of Reclamation (USBR or Bureau), within the terms of the Alameda Superior Court's 1990 Physical Solution (aka the "Hodge Decision"), by constructing a pipeline connection to the Folsom South Canal (FSC). The proposed pipeline would originate at the contract delivery location on the existing FSC at Grant Line Road, and would extend approximately 32 miles through Sacramento and San Joaquin counties to the District's existing Mokelumne Aqueducts. The project as described is consistent with the terms of the existing contract with the USBR. No USBR action subject to NEPA is required.

CEQA encourages, but does not require, the preparation of environmental review documents in a tiered process (CEQA Guidelines §15152). The program-level analyses first address general environmental issues, and subsequent project-level EIRs address the effects of specific actions that implement the elements of the program. For the Folsom South Canal Connection Project (FSCCP), the project-level EIR would be tiered to the program-level Updated Water Supply Management Program (WSMP) EIR, certified by the District in October 1993.

**SCOPING MEETING and ORAL COMMENTS**

Three scoping meetings were conducted on February 8 (Oakland) and February 13, 1996 (Sacramento and Lodi). Fifteen people attended the Oakland meeting and no comments were received. Nineteen people attended the Sacramento meeting and two speakers provided comments. Andrew Hitchings, representing Sacramento County, stated: 1) the programmatic EIR failed to properly analyze alternatives; 2) Sacramento County wants to continue to work with EBMUD on identifying and developing joint project(s); 3) project-level review is premature; 4) Sacramento County supports a diversion below the confluence of the Sacramento and American Rivers; and 5) written comments will be provided. Alan Wade, representing Save the American River Association (SARA), stated: 1) the lower American River is used by more people than any other river system in California; 2) SARA is committed to preserving and enhancing the values of the lower American River; 3) SARA opposes any efforts that would have an adverse effect on the lower American River; 4) What are the biological impacts

and mitigation, and can SARA assist in the development of the impacts analysis and development of mitigation; 5) SARA disagrees with the "less than significant" conclusion as it relates to impacts to recreation along the lower American River; and 6) SARA speaks for the millions of people and other species who use the lower American River.

Twenty-eight people attended the meeting in Lodi and three people provided comments. Supervisor George Barber read a prepared statement, on behalf of the policy Committee of the East San Joaquin Parties. He reflected on the joint conjunctive use activities that are underway with EBMUD and San Joaquin county interests, and spoke specifically to the alternative alignments for an extension of the Folsom South Canal that are being developed as part of the joint project studies and encouraged their review in the FSCCP EIR. Stewart Adams spoke on behalf of the North San Joaquin Water Conservation District (NSJWCD). He stated; 1) he concurred with Supervisor Barber; 2) if the preferred alignment originates at the end of the existing FSC it will be consistent with the NSJWCD's existing facilities on the north and south sides of the Mokelumne River; and 3) if EBMUD utilizes the Central California Traction (CCT) railroad ROW, NSJWCD major facilities will be obsolete. Joe Waidhofer spoke as a concerned citizen. He stated: 1) he agrees with Supervisor Barber; 2) he wants EBMUD to do a broader EIR than is proposed; 3) he wants to understand the relationship of the FSCCP to the joint project with the East San Joaquin Parties (ESJP) (an extension from the terminus of the FSC); 4) EBMUD/Sacramento county discussions are making ESJP uncomfortable; 5) why doesn't EBMUD take water at Bixler (in the Delta) if the District, in discussions with Sacramento County, is considering a Freeport diversion and 6) CEQA requires EBMUD to answer all of the public's questions.

#### WRITTEN COMMENTS RECEIVED

In addition to the oral comments received at the three scoping meetings, 21 letters have been received. A log of the letters is attached. The written comments can generally be grouped into four major categories:

- Category 1: The range of alternatives is too narrow;
- Category 2: Tiering off the WSMP EIR and the Findings is inappropriate;
- Category 3: Heavy reliance on the Hodge Decision/EDF testimony is inappropriate; and
- Category 4: Concerns with potential environmental impacts of the pipeline.

### **Category 1: The Range Of Alternatives Is Too Narrow**

Commentors have indicated the FSCCP EIR should examine: alternative take-out locations along the FSC; alternative diversions along the lower American River, the Sacramento River and in the Delta; joint project alternatives with San Joaquin and Sacramento county interests including conjunctive use opportunities, and; the no-action alternative. Comments include:

"SARA opposes any and all efforts by entities to divert water from the Lower American River, or from points above the Lower American River, for use outside counties, watersheds and areas of origin as defined under California law. SARA believes that all such diversions of American River water be taken from locations below the confluence with the Sacramento River." (SARA)

"One obvious alternative would be to start the project from the south end of the existing FSC." (San Joaquin County Community Development Department)

"The DEIR should evaluate alternative means for meeting the district's water supply needs, such as diverting from the Sacramento River downstream of the American River confluence ..." (California Department of Fish and Game [CDF&G])

"These feasible alternatives, include, but are not limited to, the five EBMUD/Sacramento-Area joint projects identified in EBMUD's February 27, 1996 Staff Report ..." (DeCuir & Somach, for Sacramento County and Sacramento County Water Agency)

"The DEIR should present and analyze the feasibility of obtaining contracted water from downstream sources, such as along the Sacramento River rather than the American River." (US Department of the Interior, Fish and Wildlife Service)

### **Category 2: Tiering Off the WSMP EIR and the Findings is Inappropriate**

Commentors have suggested that tiering off the program-level WSMP EIR is inappropriate since that EIR and the October 1993 Findings by the EBMUD Board of Directors do not support the implementation of the FSCCP. Comments include:

"The EBMUD Updated Water Supply Management Program deleted the proposed FSCCP. Consequently, a revised WSMP should be prepared by EBMUD which includes the proposed project." (California Sportfishing Protection Alliance [CSPA])

"The preferred alternative was Composite Program II, groundwater storage with conjunctive use of Mokelumne River water (page 26, EBMUD Board of Directors' Findings Regarding EBMUD's Updated WSMP, October 26, 1993). The preferred alternative did not include the use of American River water." (Contra Costa Water District)

"EBMUD may not rely upon and incorporate the Updated WSMP EIR alternatives analysis in the FSC Connection project EIR, because the Updated WSMP EIR was inadequate and failed to comply with CEQA. Moreover, in its findings on the Updated WSMP EIR, EBMUD's Board acknowledged that any future project involving the use of EBMUD's American River contract entitlement via a FSC connection component must begin *de novo*, because no project involving the use of EBMUD's American River contract entitlement via a FSC connection 'was reviewed adequately in this EIR to satisfy the need for a program-level alternatives analysis.' (See EBMUD Board's 'Findings Regarding EBMUD's Updated WSMP,' at p. 33 ... )" (DeCuir & Somach, for Sacramento County and Sacramento County Water Agency)

"The Updated WSMP EIR, which was prepared in 1993 and is referred to in the NOP as the program EIR upon which the project EIR will rely, did not include an adequate project description, or program-level analysis of alternatives to, and cumulative impacts from, the FSCCP." (City of Folsom)

### Category 3: Heavy Reliance on the Hodge Decision/EDF Testimony is Inappropriate

Many of the commentators recognize the Hodge flows were developed to protect the public trust resources of the lower American River, but these same commentators do not necessarily agree the Hodge Decision can be relied upon in the EIR as a measure of less-than-significant impacts nor as a guide for operational criteria.

"The Hodge Decision flows were selected to protect aquatic public trust resources in the lower American River, not to double production of anadromous fish in the river. Hence, use of the Hodge Decision flows will not necessarily facilitate doubling production" (CSPA)

"SARA has embraced the physical solution, the so-called Hodge Flows, as the new minimum environmental standard for protecting public trust interests of the lower American River. SARA does not accept the premise that diversions from the lower American River are necessarily acceptable at times when flow levels set forth in the Hodge decision are instantaneously met. The Hodge flows are minimum target flows which cannot be met at all times and that flow-related in stream conditions must be translated into actual operational criteria that will meet the Hodge Flow standard." (SARA)

"We believe that adherence to the Hodge flow requirements ... may reduce some of the harmful impacts of the project upon the aquatic resources of the lower American River. However, the effects of the Hodge flows are still under study. These ongoing studies may yet point to the need for greater flows in the American River for anadromous and/or resident aquatic species." (CDF&G)

"The Initial Study's application of "Hodge flow" levels of significance threshold did not consider and account for potential operational changes to Folsom Reservoir, which may affect storage and flow levels in months and years subsequent to EBMUD diversions. ... The Initial Study improperly relies on the Hodge Decision as the *sole* impact assessment tool in evaluating potential impacts to public trust resources, particularly fishery resources." (DeCuir & Somach, for Sacramento County and Sacramento County Water Agency)

"... the document [the Initial Study] does not provide an explanation for its assumption that impacts occurring when Hodge flows are present in the lower American River will be less-than-significant." (City of Sacramento)

#### Category 4: Concerns with Potential Environmental Impacts of the Pipeline

Many commentators responded to the environmental concerns associated with the pipeline connection itself. These concerns represent the widest spectrum of environmental issues, including:

- disruption to agricultural activities
- traffic and circulation
- wetlands, with particular attention to vernal pools
- hazardous substances in the railroad right-of-way
- loss of mature trees and oak trees
- land use consistency
- visual impacts
- State and Federally listed rare, threatened or endangered species
- recreation resources, including fishing
- fisheries, including the Bay-Delta system
- transmission lines and electro magnetic fields
- regional water supplies



## HOW WILL EBMUD ADDRESS THESE CONCERNS?

### Background

In October 1993, the EBMUD Board of Directors adopted a WSMP Preferred Alternative consisting of five major elements, including a conjunctive use project involving groundwater banking of Mokelumne River water in the San Joaquin County aquifer. Opposition by San Joaquin County interests, increases in EBMUD's need for water, and certain technical and regulatory considerations made it apparent that implementation of an EBMUD-only groundwater element would be problematic. In January 1995, the Board of Directors determined that a broader approach was merited. This approach focused on multiple water supply options and included multi-party regional projects. On September 12, 1995, the Board identified the most promising alternatives for further study. The resulting Action Plan included four elements:

- Initiate project-level environmental documentation and design activities required to construct a pipeline connection from the FSC to the Mokelumne Aqueducts.
- Continue negotiations with San Joaquin County interests regarding a joint EBMUD/San Joaquin County conjunctive use project.
- Initiate discussions with Sacramento area interests regarding a potential joint EBMUD/Sacramento area interests conjunctive use project, possibly leading to a regional program involving EBMUD, San Joaquin County parties, and Sacramento area interests.
- Pursue permitting and approvals required to develop additional surface water storage capacity for Mokelumne River water.

As stated at the February 27, 1996 WSMP Board Workshop #20, the Action Plan is intended to generate benefits to EBMUD as quickly as possible by: enabling EBMUD to take delivery of its American River water entitlement; clarifying EBMUD's opportunities with San Joaquin County and Sacramento County area interests; facilitating implementation of solutions to EBMUD's need for additional water; and taking advantage of the benefits of cost-sharing with cooperating agencies.

## **Approach**

The recommended approach to addressing the four categories of written comments on the NOP/IS is as follows:

### **Category 1: The Range Of Alternatives Is Too Narrow**

The FSCCP is a stand alone project which is not dependent on any joint project with other parties. If and when joint projects are successfully developed which include the FSCCP as a component of a larger program, the environmental documentation can be expanded, or additional environmental documentation can be undertaken, to address such programs as a whole. Notwithstanding the stand alone nature of the current project, the CEQA documentation for the FSCCP will include discussion of a range of alternatives as appropriate to address any significant environmental impacts resulting from the project.

### **Category 2: Tiering Off the WSMP EIR and the Findings is Inappropriate**

At the time of the certification of the WSMP EIR and the selection of a Preferred Alternative at Workshop #15, the Board recognized, "... the myriad of uncertainties associated with the successful development of a groundwater storage/conjunctive use program in San Joaquin County" (Findings, page 49, §8.6). Subsequent to the certification and findings of the EIR at Workshop #15, the implementation status of Composite Program II (Mokelumne-only conjunctive use), was presented to the Board. The Board adopted a WSMP Action Plan at Workshop #16, including the pursuit of regional partners. The status of the Action Plan elements have also continued to be reported to the Board. The Board's adoption of the recommended Action Plan elements at Workshop #19 recognized the need to continue to pursue alternatives that would allow the District to fulfill its need for additional water. The portions of the WSMP that may be incorporated by reference into the project level EIR will be carefully evaluated for their value and relevance to the FSCCP.

### **Category 3: Heavy Reliance on the Hodge Decision/EDF Testimony is Inappropriate**

The FSCCP EIR will evaluate and present the analyses of impacts, with the analyses based on current science, knowledge and hydrologic modeling capabilities. The areas of potential environmental impact will include the reservoir storage at Folsom, the lower American River and the Sacramento River and Delta environs (in addition to the pipeline corridor). All current

and reasonably foreseeable projects potentially affecting the operations of the lower American River will be acknowledged in the analysis. Prior environmental documentation prepared by EBMUD and others on the resources of the lower American River will be incorporated by reference as appropriate. The analyses will be responsive to the needs and intent of CEQA.

The Hodge Decision and the EDF testimony represent a considerable body of scientific information regarding the potential impacts of the District's contract with the USBR. While commentators' indicated significant concurrence that the Hodge flows do provide protection for public trust values, the District will supplement this information with scientific data developed and documented since the Hodge decision.

#### **Category 4: Concerns with Potential Environmental Impacts of the Pipeline**

The project EIR for the FSCCP will identify and discuss all the relevant environmental impacts, both direct and indirect, associated with the construction and operation of the project. The EIR will identify the significance of these impacts and will identify mitigation measures to minimize or reduce impacts to less-than-significant levels. The EIR will be organized to document the impacts to:

- *Fish, wildlife and botanical resources*, including: anadromous and resident fish species (including rare, threatened and endangered species); waters of the U.S. (e.g. wetlands and vernal pools); and wildlife and botanical resources (including rare, threatened and endangered species).
- *Water use and quality*, including surface water and groundwater quantity and quality.
- *Geology and soils*, including but not limited to seismicity, landslides and erosion potential, and the possible removal and disposal of hazardous materials.
- *Land use, aesthetics, recreation, cultural and socioeconomic resources*, including but not limited to: land ownership, land use plans and policies, land use practices (e.g. agriculture and utilities); visual impacts; water and land-based recreation facilities and opportunities; historic sites, pre-historic sites and ethnography; and, housing, tax base and economic implications from the construction work force and project operations; and traffic, circulation, energy, air quality and noise.
- *Growth inducement and cumulative impacts*, including the list of other reasonably foreseeable projects.

	EBMUD		
	FSCC Project		
	Scoping Comment Log		
	NOP/IS Mailed Comments		
	<b>Name</b>	<b>Date of</b>	<b>Affiliation</b>
		<b>Letter</b>	
1	Kristen Derscheid	2/7/96	Office of Planning & Research State Clearing House
2	Henry Willy	2/05/96	Jackson Valley Irrigation District
3	Michael R. Eaton	2/05/96	The Nature Conservancy
4	Frank Delfino	2/20/96	Concerned Citizen
5	James B. Moore Jr.	2/14/96	JBM Consultants
6	Robert J. Baiocchi	2/23/96	CA Sportfishing Protection Alliance
7	William Elsholz	2/26/96	Concerned Citizen
8	Frank F. Cirill	2/21/96	Save the American River Assn., Inc.
9	Thomas Gau	2/28/96	San Joaquin County Community Dev. Dept.
10	L. Ryan Broddrick	2/28/96	Dept. of Fish & Game, Region II
11	John F. Hahn	2/27/96	Amador County Counsel
12	Richard A. Denton	2/29/96	Contra Costa Water District
13	Thomas J. Graff	2/27/96	Environmental Defense Fund
14	Michael Schonherr	2/29/96	Pacific Gas & Electric Company
15	Ramona Robison	2/29/96	California Native Plant Society
16	Andrew M. Hitchings	2/29/96	DeCuir & Somach/Sacramento County
17	Gordon F. Tornberg	2/29/96	City of Folsom-Administration/Engineering
18	Joe Robinson	2/29/96	City of Sacramento
19	Joel A. Medlin	3/7/96	U.S. Fish and Wildlife Service, Sacramento
20	Jesse M. Diaz	3/4/96	State Water Resources Control Board, Division of Water Quality
21	Jim Crandell	3/13/96	Woodbridge Winery
22	Karl P. Winkler	3/29/96	Department of Water Resources, Central District
	<b>The following Written Comments were submitted at the Scoping Meetings</b>		
1	Alan D. Wade	2/13/96	Save the American River Association
2	George L. Barber	2/13/96	East San Joaquin Parties
3	Joe Waidhofer	2/13/96	San Joaquin County Resident

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**LIST of ACRONYMS**

aka	also known as
CCT	Central California Traction (railroad)
CDF&G	California Department of Fish and Game
CEQA	California Environmental Quality Act
CSPA	California Sportfishing Protection Alliance
DEIR	Draft Environmental Impact Report
EDF	Environmental Defense Fund
EIR	Environmental Impact Report
ESJP	East San Joaquin Parties
FSC	Folsom South Canal
FSCCP	Folsom South Canal Connection Project
NEPA	National Environmental Policy Act
NOP	Notice of Preparation
NSJWCD	North San Joaquin Water Conservation District
SARA	Save the American River Association
SJCo	San Joaquin County
USBR	United States Bureau of Reclamation
WSMP	Water Supply Management Program